

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 13786 of 2007(N)

PETITIONER:

1. SUKHESH K.DIVAKAR, SELECTION GRADE ASSISTANT, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT REGIONAL CENTRE, ETTUMANOOR.
2. P.B.SAMKUMAR, ASSISTANT GRADE I, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY.

BY ADV. SMT.P.V.ASHA

RESPONDENTS:

1. SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, REPRESENTED BY ITS REGISTRAR, UNIVERSITY CAMPUS, KALADY, ERNAKULAM.
2. VICE CHANCELLOR, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, UNIVERSITY CAMPUS, KALADY, ERNAKULAM.
3. SRI.RAMACHANDRAN NAIR.C.R., ASSISTANT, COCHIN UNIVERSITY OF SCIENCE & TECHNOLOGY, KALAMASSERY.
4. K.VINOD MENON, SECTION OFFICER, UNIVERSITY OF CALICUT, THENJIPPALAM P.O., MALAPPURAM.
5. AUGUSTIN JOSEPH.K., SECTION OFFICER, UNIVERSITY OF CALICUT, THENJIPPALAM P.O., MALAPPURAM.
6. JOHN.M.V., SELECTION GRADE ASSISTANT (ON DEPUTATION), EXAM SECTION, SREE SANKARACHARYA UNIVERSITY OF SANSKRIT, KALADY.

7. SADASIVAN PILLAI.N., SELECTION GRADE
ASSISTANT, UNIVERSITY OF CALICUT,
THENJIPPALAM P.O., MALAPPURAM.

8. USHA.P.E., SELECTION GRADE ASSISTANT,
UNIVERSITY OF CALICUT, THENJIPPALAM P.O.,
MALAPPURAM.

9. JAMES MAXI ADAI, ASSISTANT GRADE II,
MAHATMA GANDHI UNIVERSITY, PRIYADARSHINI HILLS
P.O., KOTTAYAM.

BY ADV. SRI.B.S.KRISHNAN(SR.),SC,SANSKRIT UTY.
SRI.K.ANAND, SC, SANSKRIT UTY.
SMT.LATHA KRISHNAN,SC,SANSKRIT UTY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06/06/2007 ALONG WITH W.P.(C)NO.17202 OF 2007, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)Nos.13786 & 17202 OF 2007

Dated this the 6th day of June, 2007

JUDGMENT

Since the primary issue involved in these two writ petitions is one and the same, they are being disposed of through this common judgment.

2. The issue relates to selection and appointment of Section Officers in the Sree Sankaracharya University at Kalady. On May 13, 2005, the University had published a select list of candidates who were found eligible for appointment to the above post. The selection process was admittedly completed pursuant to the notification issued in this regard on March 26, 2005. In the said notification the number of vacancies was indicated as seven, approximately.

3. It is not in dispute that the University has already filled up the seven notified vacancies from the select list. Petitioners in Writ Petition No.13786/07 are employees of the University. The primary prayer made by them in this writ petition is to interdict the University from making appointment in excess of the seven vacancies indicated in the

notification. They further impugn the decision taken by the syndicate on May 6, 2006 to extend the validity of the select list for a period of 350 days from May 13, 2006 till April 27, 2007. A copy of the said decision of the syndicate is on record as Ext.P7 in this writ petition.

4. Petitioners in Writ Petition No.17202/07 claim that they had applied for the post pursuant to the notification referred to above. They were placed at sl.no.6 and 12 in the select list. (There is no dispute that seven candidates from the list have been appointed on the basis of communal rotation.) Though it is vaguely contended by these petitioners that they have been overlooked by the University while making the appointments from the list, their primary contention is that two more vacancies which existed even prior to the extension of validity of the select list ought to have been filled up from the said list itself. They pray that the University be directed to consider the petitioners for appointment against the two vacancies.

5. In the counter affidavit filed by the Registrar of the University, it is asserted that the University has not made any appointment other than the seven initially made. It is further stated that the University does not intend to make any further appointment from the select list particularly, for the reason that the list had already expired on April 27, 2007. In view of the above assertion, the anxiety or apprehension of the petitioners in writ petition no.13786/07 cannot survive. Therefore, the said writ petition is closed.

6. As far as the contention raised by the petitioners in writ petition no.17202/07 is concerned, it has to be noticed that the University had not made any appointment other than the seven mentioned above. Petitioners do not have a case that the University has made any appointment either from or outside the list, overlooking their legitimate right. Their contention is that apart from the seven vacancies referred to above, there still existed two more vacancies even prior to the extension of the period of validity of the list. According to

them, those vacancies could have been filled up by the University at that point of time or at least later before the expiry of the extended period of the list. Petitioners contend that the action of the University in refusing to fill up those two vacancies is totally illegal and unjust. I am unable to agree with the above contention.

7. Petitioners do not have a case that the University had filled up more vacancies than what were indicated in the notification. It is submitted by the learned Standing Counsel that University intends to issue a fresh notification to fill up the remaining vacancies in due course of time. It is also pointed out by the learned Standing Counsel that a Division Bench of this Court in **Antony P.A. V. Krishnadas M.N. [2007 (1) ILR 244]** has held that the appointing authority cannot make appointment in excess of the notified vacancies. If the number of vacancies has been indicated in the notification, the appointing authority will have to stick to that number alone.

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Having heard learned counsel for the parties and having perused the materials available on record, I do not find any merit in the contentions raised by the petitioners in Writ petition No.17202/07. Therefore, it is dismissed. Writ petition No.13786/07 is closed.

A.K.BASHEER, JUDGE

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